Sectt. II-29—35,000—2-11-26.

Revenue (1927) Department.

Ordinary SERIES.

G.O. No. 446

DATED 10-3-1927

[Despatch Abstract.]

Local Boards -- South Kanara District -- Roads - Demarcation Trees - Rights of Local Boar

0-26. 5492 III

DEPARTMENT.

Received 25 APR 1926 192 Registered 192

12011

Subject

Rights of [illegible] obtain orders of Government defining the clearly the ------ on road margins and also on trees etc standing therein.

No H2442-26-A6

25 MAY 1926 p 215

Encl 12011-1 C/26 Lfm 21-5-26.

Referred to the Collector of South Kanara for very early remarks which should be submitted through the Board of Revenue

T.R. Ramachandra Mudaliyar
Assistant Secretary

ENCLOSURES.
No. eight
Spare copies

Ref on C. No. 2316/25

Station Mangalore, Dated the 15th April 1926

From (Name) M.R.Ry Rao Bahadur N.Subba Rao Avargal,
(Designation) President, District Board,
South Kanara.

To The Secretary to the Government of Madras,
Local Self Government Department.
Madras.

Sir,

p 9 below & p 13 & p 17 & p 21

In submitting herewith copies of resolutions Nos 7.72. 87 and 93 passed at the meeting of the District Board held on 25th January last, I have the honour to request you to be so good as to obtain the orders of Government on the several matters dealt with therein viz (1) the authority which is to deal with encroachment on road margins (2) whether kumaki rights should prevail over thos of local boards so far as the 22 yards road margin is concerned (3) the demarcation of all local fund road margins as road pormabo and (4) the rights of local boards over trees standing in the 22 -- yards road margin.

2. Before dealing with the several questions noted above, I have invite the attention of Government at the very outset to the an

of the existence of several public roads in this district maintained and actually controlled by local boards but which it has now been discovered, do not legally vest in such boards. The anamoly is caused by Government Notification No 188 issued under Section 49 of the Act Local Boards Act V of 1884 in respect of this district and printed at page of Part I A of the Fort St George Gazette, dated 17th March 1896. Only such of the roads as existed there had evidently been specified in the said Notification and all other roads have been excluded from the operations of the Act. Many roads have been formed and maintained since by local boards but so long as the old Notification stands and is not revised to suit the altered circumstances and conditions in the district, the roads so formed do not legally vest in local boards but vest in the ---- Revenue Department. In support of this view it is stated that the notification though published under the old Act is to be deemed to have been published under the new Act in accordance with the provisions of Section 18 of the General Clauses Act I of 1891. I need hardly point out the difficulties and complications caused by this legal fiction, whereby a considerable mileage of public roads for the upkeep of which local bodies spend considerable sums every year, are taken away from their control and placed in the hands of the Revenue Department which has no responsibilities in the matter of the maintenance of public roads, highways and communications The conditions of this district are peculiar. The road margins are absolutely necessary for the use of the Boards, as they are required for widening the road, storing metal, removing gravel and laterite, adding to the revenue of the Board by leasing out annually which is sanctioned by Government. It is therefore very desirable in public interests to restore to local boards their full rights and freedom to carry on the se functions without imposing any needless restrictions and circumscribing the full scope of their activities as contemplated in --- Section 60 (1). I request therefore that Government may be pleased to cancel the notification referred to above and give full effect to section 60 (1).

3. Turning now to the question as to which of the two authorities -the Revenue ~~Inspector~~ Department or the local boards- should deal with encroachments on road margins, the position as set out in the Proceedings of the Collector of South Kanara R. Dis 3456-24 dated 7.5.1924 a copy of which is appended for reference is briefly as follows . pp 23-25 Below

Nature of encroachment.	Authority for dealing with the encroachment.
i) Encroachments falling within the 22 yards road margin passing through assessed waste land but not separately surveyed and demarcated separately as road poramboke.	Revenue Department.
ii) Encroachments on road margins beyond the limits of road poramboke and forming part of adjoining assessed waste land	do
iii) Encroachments on land beyond the 22 yards road margin but included in road ~~parak~~ poramboke sub division	Local Board.

4. The question of the extent and scope of the rights and powers of local boards on road margins has been a subject of controversy on more than one occasion in the past and it has been viewed from different stand points by different Collectors, the only common point of agreement being that the Boards have certain interests in the land, not being private patta land, lying on either side of the road to a distance of 22 yards from the centre of the road. This road margin as it has always been called even by the Revenue Department was in former times when revenue officials were in charge of local board administration , not being interfered with by the Revenue Department in any way and the local boards were enjoying the same as a part and parcel of the road itself . When the administration changed into the present hands, the Revenue Department began

to lay claim to the exercise of powers which in effect, render the term 22 yards road margin merely illusory. I think the time has come for deciding definitely whether the 22 yards road margin is a reality or purely a fiction. The convention of the 22 yards road margin, even viewing it as such was I believe, born with the earliest administration of local boards and old as the convetion is, it hardly calls for any special arguments or reasons as to the necessity for giving it a legal existence. The very definition of "public road " in sections 3 (18) of the Act seems to go far beyond the side drains and contemplates the inclusion of strips of land on either side, though the extent of the same is variable. To set at rest all doubts in the matter and to obviate all difficulties in the future, I would suggest an amendment of the definition of "public road " so as to clearly include in that expression the 22 yards road margin. Meanwhile I would also suggest that the Collector may be instructed to take steps to alienate in favour of the concerned local board the 22 yards road margin so far as it lies under the control of the Revenue Department.

5. In making such alienation it has become the practice to claim sub division fees and seigniorage on the tree growth on the land to be --- alienated . I would strongly urge in this connection the abrogation of any rule or rules under which the fees are so collected by the Revenue Department from local boards. The alienation of lands in favour of local boards should not be placed on a par with darkhasts to private parties. Nor is it desirable in public interests to treat local boards as if they are private individualistic concerns. Local boards are performing several of the primary and important functions of Government and they are nothing if not semi- Government institutions fed and fostered by Government. I therefore urge for favourable orders on the lines indicated above. I have no doubt the Boards will appreciate this just and equittable act

6. The next question to be discussed is whether kumaki rights or, to be more accurate, kumaki privileges should have precedence over the road --

margin interests of local boards. There can hardly be any ~~other~~ doubt that the larger interests should prevail. I append a copy of the Proceedings of the Collector of South Kanara No. Dis No 5161 25 dated July 1925 in which this question has been dealt with at length. I agree generally with the conclusions of the Collector set forth therein. I request that the Government may be pleased to approve the same and issue a G. O. so as to obviate any possibilities of change of principles in the future by Collectors without reference to Government and without giving local bodies an opportunity to state their views.

pp27-33 below

7. The third point which I wish to urge is the necessity for demarcating the 22 yards road margin as road poramboke. I addressed the officer in charge No VI Survey Party, Cannanore requesting that all public roads with the full 22 yards road margin may be surveyed and demarcated as road porambokes at the resurvey. He has replied that it was not possible to allow the full 22 yards as old measurements have to be followed and that the reservation of any portion of waste lands as road poramboke has to be done by the Collector who should be addressed in the matter. As such reservation is of general importance, Government may be pleased to pass orders directing that this should be done in all cases wherever possible.

8. The last point is as to controlling authority as regards the trees in the road margin. The answer to this no doubt depends in a large measure on the decision of the question of road margins referred to already. I may however invite the attention of Government in this connection to G. O. No 1334 Rev. Department dated 29th August 1924. The opinion of the Hon'ble the Advocate General appended to the said G. O. (copy enclosed) will be found to throw a good deal of light on the decision as to the rights of local boards over road

(C)

(C)

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margins.

I have the honour to be,

Sir,

Your most obedient Servant

President

T.H. 7

Extract from the Proceedings of the District Board of South Kanara dated 25. 1. 1926

Present.

M. R. Ry Rao Bahadur N. Subba Rao Avargal, President.

Do S. S. Rama Rao Avargal, Taluk Board, Kasaragod.

Do V. Narsimha Karanta " do Kundapoor

Do M . RamaKrishna Punja do Mangalore.

Do K. Sadashiva Bhat Avargal do Karkal

Do M. Vittal Kamath " do Udipi

Do N. N. Suvarna Avargal

Do K. Subbanna Hegde "

Do K. Raghuchendra Ballal "

Do K. Ramanath Poi Avargal

Do B. Surappa Hebbar "

Do K. Deju Shetty "

Do K. Narsing Nayak "

Do K. Srinivas Hegde "

Do N. Manjappa Adyanthaya "

Do K. Angara Avargal

Do Nellikai Venkat Rao "

Do A. Krishnaya Kodgi Avargal

Do T. C. Rama Varma Raja "

Do Rao Saheb B. Mahabala Hegde "

Do Rao Saheb E. C. M. Mascarenhas "

Do M. Ramanna Gowda Avargal

Do H. Ganapath Rao "

Do H. Manjayya Sherevegar "

Do A. C. Chathukutty Nair "

B. M. D'Souza Esquire

Muhammad Sherule Saheb Bahadur

Do Puttur Saheb Bahadur

Muhammad Schamnad Saheb Bahadur

x

x

7. Read President's letter C. No 4560-DB 25 dated 14.11.1925 to the Officer in ~~charge~~) Charge Survey Party, Cannanore, requ ting that all public roads with the full 22 yards road margin may be surveyed and demarcated as road porambokes and registered as s by the Settlement Department at the resurvey as some of the road margins are found to be registered Government waste etc at present.

Read also reply L. Dis 1602- M. S. R. 25 dated 28.11.1925 from the Officer in charge No VI Survey Party, Cannanore, intimating that the Collector may be addressed as it is not always --- possible to allow the usual 22 yards road margin as old measurements have to be followed.

Resolution

The District Board is of opinion that a road margin up to a 22 yards is necessary in the interest of the Board. The District Board is also of opinion that the control over it should be vested in the District Board. The President is empowered to address Government to obtain definite orders as to the vesting of the road margin and their control.

x x x

True Extract

President District Board, South Kanara

9 13 4 11

Extract from the Proceedings of the District Board of South Kanara dated 25. 1. 1926.

Present.

M.R.Ry Rao Bahadur N. Subba Rao Avargal, President

Do S. S. Rama Rao Avargal, President Taluk Board, Kasaragod

Do V. Narsimha Karanta " do Coondapoor.

Do M. Vittal Kamath " do Udipi

Do M. Ramakrishna Punja do Mangalore

Do K. Sadashiva Bhat " do Karkal

Do N. N. Suvarna Avargal

Do K. Subbanna Hegde "

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Do K. Ramanath Pai "

Do B. Surappa Hebbar "

Do K. Deju Shetty "

Do K. Narsing Nayak "

Do K. Srinivas Hegde "

Do N. Manjappa Adyanthayya "

Do K. Angara Avargal

Do Nellikai Venkat Rao "

Do A. Krishnaraya Kodgi "

Do T. C. Rama Varma Raja "

Do Rao Saheb E. C. M. Mascarenhas "

Do Rao Saheb B. Mahabala Hegde "

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Do H. Ganapath Rao "

Do H. Manjayya Sherevegar "

Do A. C. Chathukutti Nair "

Do B. M. D'Souza Esquire

Muhammad Schammad Saheb Bahadur

Muhammad Sherule Saheb Bahadur

Muhammad Puttur Saheb Bahadur

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72. Read Collector's Proceedings R. Dis 3456- 24 dated 7.5.24 passing orders as regards the procedure to be followed in cases of encroachments.

Read also remarks of the Presidents of Taluk Boards and M. R. Ry M. Shiva Rao Avargal, as District Board Member.

Read also Office Note in the matter.

Resolution

The District Board is of opinion that the encroachments within the 22 yards road margin whether on lands registered as -- assessed waste, poramboke etc other than road poramboke should be dealt with by the concerned local board which maintains the road. The President is empowered to address Government in the matter and also to request the Collector not to assign lands within 22 yards road margin until the question is finally settled.

x x x

True Extract

President, District Board,
South Kanara

15 11 15

Extract from the Proceedings of the District Board of South Kanara dated 25. 1. 1926.

Present.

M.R.Ry Rao Bahadur N. Subba Rao Avargal, President

Do S. S. Rama Rao Avargal, President Taluk Board, Kasaragod

Do V. Narsimha Karanta " do Coondapoor.

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Do B. M. D'Souza Esquire

Muhammad Schamnad Saheb Bahadur

Muhammad Sherule Saheb Bahadur

Muhammad Puttur Saheb Bahadur

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87. Read District Board Engineer's N. Dis C. 2179 DE dated 8.1.1926 forwarding Udipi Division Assistant Engineer's report on Coondapoor Section Officer's endorsement on the petition of H. Rangayya Shetty (Baindur) recommending the sale of 226 catechu trees standing on road margins on Roads Nos 21 and 22 at Rs 3 each

Read also petitioner's offer at Rs 3 each

Resolution

The District Board is of opinion that the control over the trees within the 22 yards road margin should vest in the concerned local board which maintains the road. The President is authorised to address Government in the matter.

x x x

True Extract

President District Board,
South Kanara

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Extract from the Proceedings of the District Board of South Kanara dated 25. 1. 1926.

Present.

M.R.Ry Rao Bahadur N. Subba Rao Avargal, President

Do S. S. Rama Rao Avargal, President Taluk Board, Kasaragod

Do V. Narsimha Karanta " do Coondapoor.

Do M. Vittal Kamath " do Udipi

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Mr B. M. D'Souza Esquire

Muhammad Mohammad Saheb Bahadur

Muhammad Sherule Saheb Bahadur

Muhammad Puttur Saheb Bahadur

Pb 27-33 unrs 93. Read Collector's Proceedings R. Dis 5164- 25 dated of July 1925 relating to kumaki lands with connected papers.

Read also District Board Resolution No 21 dated 30.11.25 referring the papers to the Standing Committee.

Read also the Standing Committee's recommendation that the matter may be decided at the within meeting.

Resolution

The District Board is of opinion that the claim of the District Board should prevail over that of the kumakidars when a portion of the 22 yards road margin is kumaki. The President is empowered to address Government in the matter.

x x x

True Extract

President, District Board, South Kanara

M. Dis 5456- 24.

Proceedings of the Collector of South Kanara dated the 7th May 1924.

C. A. Pouter Esquire, I. C. S.,

Read Buntwal Deputy Tahsildar's Report C. No. 136 Sup 24 dated 7th March 1924 received with the Mangalore Divisional Officer's endorsement M. Dis C. No. 522-24-2 dated 12th March 24.

Encroachments- Roads and road margins- Agency of control- instructions issued.

The Deputy Tahsildar of Buntwal solicits instructions as to who should take action on the following classes of encroachments i.e. whether the Revenue Department or the Local Fund Department should take action.

(i) Encroachments falling within the usual 22 yards allowe for the road margin of roads passing through assessed waste l. but not surveyed and demarcated separately as road poramboke.

ii) Encroachments on road margins of roads surveyed and e tered as road poramboke, the road margins thereof falling beyo the limits of the road poramboke and forming part of adjoining assessed waste land.

iii). Encroachments on land beyond the usual 22 yards road mar gin but forming part of the survey field or sub division regi ed as road poramboke.

2. All public roads in this district are not vested in the Local boards. The public roads vested in the Local Boards are:-

(i) those specified in Government Notification No 188 issued under section 49 of the old Local Boards Act V of 1884 in respect of this district and printed at page 47 of Part I A of the Fort St. George Gazette dated 17.3.1896. This notification though published under the old Act is to be deemed to have been published under the new Act under section 18 of the Gener

Clauses of Act I of 1891- vide para 2 (1) of B. P. No 511 Mis L.R. dated 1st March 1923 communicated with this office endorsement D. Dis 1605-23-V 6 dated 5. 4. 19 and G. O. No 545 L and R dated 28th February 1924 in B. P. No. 598 Mis. dated 10th March 1924 communicated with this office endorsement F. No. 28-24 dated 20. 3. 1924,.

(2) All roads formed subsequent to the above notification by acquisition of private land at the cost of the Local Board or by alienation of Government land in favour of that bod

(3) Encroachments on the roads so vested in the Local Boards must be dealt with by the Local Board concerned under sections 159 and 207 of the New Local Board's Act XIV of 1920 communicated with this Office Endorsement D. Dis 5668-22 dated 17th September 1922.

3. All other roads have been excluded from the operation of the Local Boards Act under the notification quoted above and are therefore under the control of the Revenue Department. The encroachments on these roads as well as the above 3 classes of encroachments on the 22 yards margins of these roads should be dealt with by the Revenue Department vide Para 11 of B. S. O. 26 at page 105 of Vol. I.

4. The above three classes of encroachments on the 22 yards margins of roads vested in the Local Boards should be disposed of as shown below.

Class (i). The 22 yards road margin forms part of the adjoining Government waste. Unless and until it is alienated in favour of the Local Boards it is not vested in the Local Boards but continues to be under the control of the Revenue Department which should deal with encroachments.

Class (ii). These road margins are of the same nature as those of class (1). Hence encroachments on these should also be dealt with by the Revenue Department.

Class (iii). The road margins under this class vest in the Local

Boards because they form part of the Survey field or sub division registered at Settlement as road poramboke. Encroachments on --- these road margins should be dealt with by the Local Board concerned Encroachments beyond the 22 yards road margin but within the limits of the land registered as road poramboke should be dealt with by the Revenue Department -vide para 4 of B. P. O. 26

5. There is another class of encroachments on roads vested in the local bodies in which the action of the Revenue Department is called for viz those in which the local bodies have used all --- their powers and failed or those in which the local bodies have lost their rights by 30 years adverse possession or occupation by the tresspasser. In either case the Government have held that the site of the encroachments must be deemed to have reverted to --- Government (are not barred, steps) and that if the reversionary --- rights of Government are not barred, steps should be taken to enforce them. The Board however in B. P. No 1079 Mis. dated 23rd June 1922 referred to above has directed that such action may most conveniently be taken at general re-settlement unless some particular reason arises in the meantime to take such action earlier.

Sd: P. K. Nambiyar,
For Collector.

True Copy

President, District Board, South Kanara

R.Dis No: 5161 -25

Proceedings of the Collector of South Kanara, dated 22-7-25.

Assignment. Land Kumaki lands. Road margin - Reservation Instructions issued.

Bantwal Dy. Tahsildar's report Ref. D.R. 282/1334 dated 18-6-1925 received with Divisional Officer's endorsement N.Dis.C.No. 2583 - 25-2 dated 25-6-1925.

The Deputy Tahsildar solicits instructions on the -- following points:-

(1) Whether a margin of 22 yards should be reserved when a local fund or an important village road passes through Kumaki land.

(2) Whether the local fund Department should be consulted as to the assignment on darkast of the encroachment on the Kumaki portion within the road margin.

Point (1) The Deputy Tahsildar's attention is drawn to the following orders:-

(1) Para 2 of the revised R.S.O. No.15 which lays down that when a road runs through the land darkhasted for a width of at-least one chain should be set apart for the road and the remainder dealt with under the Rules.

(2) This office circular R.Dis.No.3129-21/26-5-21 D.Dis. 5080-21/5-10-21 and R.Dis.No.1193/23 /23-2-23 under which a margin of 22 yards on either side from the centre of the road should be reserved, in the case of all important village roads when lands are assigned on darkhast along such roads.

(3) This office circular Dis.No.427R / 30-8-13 which directs the lockspitting of the 22 yards margin in the case of all public roads running through assessed unoccupied, waste and prohibits the assignment of lands within 22 yards of the road margin.

(b) Circular Dis.No.2035 D.R./12-5-15 which directs that unless the Kumaki has been walled in and the Forest growth conserved Kumaki privileges should not be recognised within 22 yards from the road centre.

(c) Circular Dis.No: 4945 D Rev/ 24-12-15 which lays down

that in cases where kumaki lands within the road margin have been walled in and the forest growth conserved, they cannot be assigned as a matter of course and that when they are required for a public purpose such as a road, they should not be assigned without ~~without~~ the permission of the Collector and without consulting the District Board Engineer.

(4) This office Circular Dis.No.564 Rev./14-10-16 based on this office Dis. No.231 R. Ver./6-6-25 which directs that when a road runs ~~through~~ through kumaki land it is not entitled to 22 yards margin at the expense of the kumakidars but only to the width of the road with side drains and avenues if any.

All the above circular orders are in accordance with para 2 of F.S.O. No.15 and the circulars quoted in items (3) &(4) allow kumaki privileges to the kumakidar over the kumaki portion within the road margin so long as it remains as Government assessed waste. The question raised therefore turns out to be whether when the kumaki land is assigned the 22 yards road margin is required by the rules to be set apart. The decision of this question mainly depends upon the legal status of kumaki which may be described as follws:-

(1) Ruel 7 A allowing the kumakidar special forest privileges over his kumaki is published as part of the rules under section 26 of the Madras Forest Act. This section occurs in chapter 3 of the Forest Act which deals with the lands at the disposal of the Government not included in the Reserved forest. Hence it is clear that kumaki land is at the disposal of the Government.

(2) The Madras High Courts has held (i) that Kumaki right is not an easement but a right exercised over the Government waste by permission of Government and that the kumaki right does not entitle the kumakidar to a decree of possession I L R 16 Madras 304(ii) -- that it is open to the Collector to grant Kumaki to any person -- other than the kumakidar at his discretion. I.L.R. 12 Madras 422 followed in I-L-R 28 Madras at page 287 and (iii) that the plaintiff (kumakidar) is not entitled to have 100 yards next his warg kept waste so that he may use the same ~~xxxx~~ that according to the custom of kumaki a wargadar is only entitled to 100 yards waste next to his warg so long as it remains waste S.A/1886 (unreported) ~~followxxxx~~

followed in I L R 28 Madras pages 287 and 288.

(3) The Government have held that the use of Kumaki lands is not enjoyed by landholders as of right but is a concession exercised over Government waste by permission of Government (G.O.513 Rev. dated 8.3.06 in B.P. 217 L.R. and RS/15.6.06). It has also held that kumaki land needs not to be acquired when it is required for public purposes (G.O.193 Railway /25.1.04) with thanks

(4) Mr. Couchman as Collector has held that the order refusing to assign the kumaki land on darkhast to the kumakidars is only justified if theland is really required for a public purpose Dis No. 3664 D.Rev./11.11.12

(5) Mr. Gurgenven as ag. Collector has held that the fact that the land is kumaki gives right to have it assigned on patta but only a preferential claim as against other applicants. (Dis.No 355 R.Rev./16.9.15)

(6) Mr. Aizimuddin as Collector has held that kumaki land which is too near to a reserved forest cannot be assigned on patta and that it shall remain as kumaki as heretofore Dis.No.2475/D Rev lated 9.8.00.

The above rulings show that when kumaki land is being assigned in the vicinity of a L.F.road or an important village road under the darkhast rules, the kumaki portion lying within 22 yards road margin should be left unassigned and that the exercise of -- kumaki privileges over the said portion by the kumakidar should not be interfered with so long as it remains as assessed Government waste.

Point (2). The chief object of the 22 yards road margin is to make it available for widening the road when necessary. This object will be frustrated if the F. Department in which the paramboke road is vested is not consulted since its need which is for the public benefit is to preponderate over the need of a private individual like the kumakidar. Mr. Ellis has ordered in this office Circular D.Dis. 1812 -20/1-12-20 that kumaki lands within 100 yards of the reserved forest boundary cannot be assigned without a reference to the Dt. Forest officer and kumaki lands within road margins stand on the same footing . As the k[illegible]der cannot

claim a patta for the kumaki land within the road margin it is necessary that the L. F. Department should be consulted from the point of view of public interest as to the assignment of the encroachments of such kumaki lands.

Sd/ G. W. Wells,
Collector,

/True Copy/

President.

owner , what is the effect of the enactment as to the vesting of th road in the Local Board? One view that everything that the Governme had, the highway looked after by the Govern ent and the soil, the tre and all, in so far as they belonged to Government passed through to the Local Boards (Section 19 Mad. 154). This view was disapproved in 25 Mad at page 647. The other and the(unknown to the) sounder view is that a special property, unknown to the common law was created by the statute and was vested in it. The nature of this special property and the right vested in the local authority with all its incident is discussed in the case of Sundaram Iyer V. Madura Municipality (I.L.R) 2 Madras 635 referred to and followed in 38 Mad. 6). The English case Coverdale v Charleton (4 X B D 104 cited in 25 Mad) held that the special property that passed included the right to grass on the road and the local authority could lease the pasturage. Brett ,e.g. held that it passed "absolute property in everything growing on the surface of the land (page 642). While the House of Lords criticised the language of the decision in 4 Q B D they themselves recognised that what passed to the local authority would include (according to Lord Halsbury)"so much of the soil of the street as might be necessary for the purpose of preserving and maintaining and using it as a street" (page 643) and (according to Lord Herschell) " such property only as is necessary for the control protection and maintenance of the street as a highway for public use " (page 645). The extent of the pro erty that will thus pass to the Local Board must be determined reference to the Indian Statute that creates this Indian) property. Here we have a local board the authority of in connection with a road includes the right to plant and mainta avenue trees as indicated

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Opinion.

The question raised is when the roads are vested in a Local Board, to whom do the trees belong to the Board or to the Government?

Before the Local authorities came into existence under the statutes, the am roads in the land were under the control of the Government. The roads might have been wholly on Government proamboke lands. If there were trees on such roads, the road, the trees and the subsoil all would have belonged to the Government. It may --- however, be that the roads in part passed through private lands Subject to the user of the road for the public passing and repassing along it, the ownership of the soil and the trees in such part will be vested in the owners of those lands. In the absence of --- evidence, the presumption according to decided cases is that the -- owners on either side of the road, whether Government or private persons own the soil of it admedium filum. A presumption that it is pormaboke land, unless the contrary is proved, may be the juster presumption in this country as Sadasiva Iyer J, says in 38 Mad. page 6, but that is irrelevent to the present question. Whoever were the original owners of the soil of the highway will be deemed to have dedicated it to the public as a highway and continue to be its owners subject only to the user of the highway (Section 25 Mad. at 638). Whoever may thus have been the owners of the soil of the highway, the highway was being looked after by the Government for the benefit of the public.

In this state came the Local Boards Act, local authorities were brought into existence and the roads were vested in t em. Any owners whether as to soil or as to trees,

authorised in section 95 the planting of trees and in section 144 the Government making rules in regard to it. The present Act has no section like section 95 of the Act of 1884 but section 202 show no change was thereby intended. Where an existing road which has an avenue of trees is vested in a local board, the Government must be deemed to pass at least the special property that the Act conceives a public road to be without giving up its full ownership. The conception property involved in "a road " according to the Act takes in so much of the soil as enables the planting and maintaining of avenue trees. If so much of the soil will pass the trees already existing must be conceived as part of the existing road and pass with it. according to the statute. This view is not only not negatived by the statute but is fairly supported by its language .Section 49 of the Act of 1884 ~~by~~ ran thus:- "All public roads ... in any districts..... and the pavements stones and other materials thereof and also all erections ,materials, implements and other things provided for such roads.... shall vest in the District Board ".

Section 50 of the Act of 1884 ran thus:-

All sewers, drains, drainage works, tunnels and culverts in alongside or under the public roads in any district whether made at the cost of the District Board or otherwise, and all works materials and things appertaining thereto shall vest in the District Board.

Section 60 of the Madras Act XIV of 1920 runs as follows:-

(1) All public roads in any area to which this act applies shall vest in .....

(2) All pavements ,stones and other materials of a public road and all erections , materials and other things provided for such a road, all sewers , drains, drainage works, tun-

P. 42 29 24 25

nels and culverts , whether made at the cost of the Local Fund or otherwise in alongside or under any public road and all works --- materials and things appertaining thereto shall vest in the local board in which the public road vests.

Comparing this with the language of Section 202 which speaks of other appurtenances of public roads after referring to trees and grass, it is fair conclusion that the words "other things provided for such a road and things appertaining thereto" must take in trees also though trees are not specially included in the definition of road. A distinction between existing trees and those subsequently planted as to vesting in the Local Board will be seen to have no substantial foundation if once it is realised that the conception of road intended to be vested includes the idea as well of trees as part of it.

In this view it will be doubtful whether the right of to trees on the road can be retained by the Government except by excluding the road itself from the operation of the Act under Section 60 of Clause 3.

Sd: T. A. Venkatramana Sastri
Advocate General.

Ootacamund, 12.9.1924.

Proceedings of the Chief Conservator of Forests.

No Mis. 317 dated 10.11.1924

Proceedings- Recorded.

Sd: K. Raman Nayar
For Chief Conservator of Forests.

True Copy

President, District Board,
South Kanara

*21,000—6-9-24.

LOCAL SELF GOVERNMENT **DEPARTMENT.**

Received ..... 192 . *Registered* B 3025 192 .

BOARD OF REVENUE * LAND REVENUE & SETTLEMENT * 18 JUN. 1926

Subject.

Local Boards - Road margins - Control.

Government Endorsement 12011-1C/26 L.F.M. dated 21-5-26.

Enclosures.
No. .....
.....
Spare copies .....

D.Dis. No. 4242-26.

Station Mangalore , *Dated the* 12 th June, 192 6.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Collector of South Kanara.

To The Secretary to the Government of Madras,

LOCAL SELF GOVERNMENT Department.

Through The Board of Revenue, Land Revenue & Settlement, Madras.

Sir,

Sir,

I submit the following remarks on the District Board President's letter.

2. Para 2. G.Os Nos. 1023 L dated 20-8-09 and 1910 Mis L dated 10-7-24 communicated in B.P.Mis.No.2367 dated 7-10-24 restore all public roads and streets in the District to the control of the local boards concerned. The notification dated 17-3-1896 referred to by the President should therefore be considered to have been cancelled.

(H) pr Communicated to all Pts.

3. Para 3. This office circular Dis.No.3456 R, dated 7-5-24 defines the respective rights of the Revenue ------

+ p3 ante

pp23-25 ante

Department and the local Boards to deal with encroachments on road margins. Paras 2(1) and 3 of this circular may - be read as modified by G.O.Nos.1023 L dated 20-8-09 and - 1910 Mis.L. dated 10-7-24 quoted above. Of the three ---- classes of encroachments referred to by the President the first class of encroachment has not been correctly ------ described by him. There is an omission of the words ----- "of roads" after the words "the 22 yards road margin". The President's view that the third class of encroachments can be dealt with by the local boards is not correct as the -- land lying beyond the 22 yards road margin is not vested in the Local Boards but is under the control of the ------ Revenue Department. In this connection I solicit ------- reference to this office R.O.C. No.3072-26-A6 dated ------ 17-5-26 in which the question as to who should deal with the encroachments in road margins has been submitted for the Board's orders at the instance of the President ---- District Board.

4 Paras 4 and 7. In para 4 the President raises -- the general question of transferring all road margins -- to the Local Boards irrespective of the fact whether they have or have not been demarcated as such. When such --- margins form part of road poramboke they are vested in the Local Board concerned. Please see para 2 of G.O.No.254 L. dated 20-2-08; but where such margins do not form portions of the roads but ~~from~~ form portions of the unassigned -------- Government land, the Government have ordered in para 3 -- of the Government order quoted above that the Collector -- can himself take action for their inclusion within the --- limits of the road by determining such limits and alienating them to the Local Boards concerned if necessary. Though the District Board was informed of the above Government -- order so far back as March 1908 it has not yet taken steps for getting such margins transferred to the Local Boards. If the District Board takes action in the above direction the necessity for amending the definition of "public road"

in section 3 (18) of the Local Boards Act in the manner ------ suggested by the President does not arise. The question ---- raised in para 7 viz of demarcating the 22 yards road margin as road poramboke is closely allied to the question raised in para 4. This question involves the general revision of the demarcation of the roads in this district. It was raised in 1913 by the then Collector Mr. M.E. Couchman and referred to the Board for orders; but the Board vetoed the Collector's proposal in B.P.Nos. 1819 R & S dated 6-6-13 and 2779 R.S. -- dated 23-8-13. The circumstances of the district have not changed since and there are no reasons for reopening the ---- question now.

5 Para 5. The Local Boards cannot claim exemption eithe from payment of sub-division fees for subdividing road ----- margins applied for alienation to them or from payment of --- seigniorage on the tree growth standing thereon. They are -- entitled to the free transfer of such tree-growth subject to the conditions laid down in B.P.No.1019 Mis.L.R. dated --- 5-5-23.

6 Para 6. The question referred to has been fully ---- dealt with in this office circular R.Dis. 5161-25 dated ----- 22-7-25 a copy of which forms an enclosure to the President's letter under reference.

7 Para 8. Road margins forming part of road ---------- poramboke are vested in the Local Board with all the -------- tree growth standing thereon in accordance with the -------- Advocate General's opinion communicated in B.P. 71 L.R. dated 10-10-24. Where road margins are not included within the --- limits of road poramboke and lie in the adjoining unassigned Government land they are not vested in the Local Boards for the reasons given in para 4 supra unless they are formally alienated. The treegrowth in such margins does not belong to the Local Boards whose privileges over it are regulated by this office circular Ref P.R.2808 Rev. dated 1-4-20 in --- this office file Dis No. 157 R.Rev dated 28-10-20 which is herewith submitted for referende and return.

8 The Government endorsement under reference

together with the enclosures are herewith resubmitted.

Your obedient servant,

For Collector.

U.S. 15-6-26.

15.6.26

SELF GOVERNMENT **DEPARTMENT** G.F. 81

CURRENT No. 23694

Received ..... 192 *Registered* ..... 192 .

Subject.

Local Funds - Roads - (South Kanara) - Road margins - Claim of the District Board President.

--

ENCLOSURES.
No.....
.....
Spare copies.....

Reference-B No.3025/26.1,

Station M a d r a s *Dated the* 9th August 1926.

From W. SCOTT BROWN, ESQUIRE, I.C.S.,

Secretary - Land Revenue and
The Board of Revenue ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

P.L.Moore Esquire, C.I.E., I.C.S.,
Commissioner of Land Revenue.

--

~~Resolution~~
Reference.

Read the following paper:-

Letter from G.W.Wells Esquire, M.A., I.C.S., - Collector of South Kanara, D.Dis.No.4242/26, dated the 12th June 1926.

::

REFERENCE.

Submitted to Government.

pp 43-44 ebw

2. Paragraph 3 of the Collector's letter.- The Collector is apparently of opinion that land beyond the 22 - yards road margin even if it forms part of a survey field or sub-division registered as road poramboke is under the control of the Revenue Department and that encroachments - thereon should be dealt with by that department. So long as a survey field or sub-division is registered as road, it

is

is impossible in view of the wide definition of 'public road' in Section 3(18) of the Local Board's Act, to negative the - claim of ✗ a local board to the whole extent of the field or sub-division until any part which is regarded as unnecessary is excluded from the control of the local board and resumed by Government.

3. Paragraph 4 of the Collector's letter.- T h e Collector proposes to alienate to the local boards under B.S.O. No.24 - road margins forming portions of unassigned Government land. In the Board's opinion S.O.No.24 is intended to apply only to alienation of a definite plot for a specific purpose, and not to such wholesale transfers of assessed waste to road poramboke. The answer to the request made by the President, District Board, at the end of paragraph 4 of his letter is that no steps can be taken to carve out road margins in assessed wastes and that a margin will be formed and vest in the local board only when there is an assignment on darkhast of the - assessed waste adjoining the road. Till that occurs the local board can excavate pits for earth &c., for road repairs but has no vested rights apart from that and no jurisdiction over encroachments. After a darkhast and consequent transfer of the margin to road poramboke a local board will have the rights it has at present over road porambokes.

pp 44-45 above

4. Paragraph 5.- Under B.S.O.No.15(2) if a darkhast application is put in for a piece of assessed waste adjoining a road which has no margin on that side, the land should only be assigned to the darkhastdar upto a line parallel to and half a chain distant from the middle line of the road. - Emphasis is laid on the width of the margin as the President, District Board, and the Collector both appear to contemplate a width of one chain on either side of the road which is not only excessive in any ordinary circumstances but not in - - accordance with the B.S.O. as revised. The fact of assignment to the darkhastdar of the portion outside that area

renders him liable to pay sub-division fees. The margin inside that area will automatically be transferred to the local board; and it appears to be unnecessary to levy a sub-division fee from the local board also.

5. Subject to these remarks, the Board concurs generally in the observations of the Collector on the President's letter.

W Scott Bourne 17/8

Secretary.

To the Secretary to Government, Local Self Government, with records.

Copy to the Collector of South Kanara.

- - -

C.N.N./10-8-1926.

11.8.26

+ 57

C.NO.2213E.26.

Local Boards.- South Kanara Dt roads.- demarcation.- Trees.- Rights of Local boards.- Resolutions of the Dt. Board.- Ref. no. 2316-25&15.4.26.

1813 L. 2.10.1895

352 L 21.2.1896.

513 Rev 8.6.1906.

254 L. 20.2.1908

1023. L 20.8.1909.

837 Rw 5.6.1924.

1334 Rw 29.8.1924.

1910 L&M. 10.7.24

3 53

L. S. G.

C No. 12011 from the P.O.B, South Kanara No. C $\frac{2316}{25}$ dt 15-4-26

Subject :— Rights of local boards on road margins and trees standing thereon — South Kanara Dist.

p 1 cf [Endt No. 12011-1C dated 21-5-26]

pp 43-49 cf. [C No. 23690 from the Board of Revenue No. 3025-21-1879 $\frac{7}{28}$]

The several questions raised by the President and the remarks of the Collector and the Board of Revenue thereon are dealt with below.

pp 1-2 cf 2) Para 2 of President's letter :— Vesting of public roads

(F) As observed by the Collector G.O. No. 1023 L dated 20-8-09 restored all public roads and streets in the district to the control of the local boards concerned. The President is presumably not aware of the G.O. of 1909 and his attention may be invited to this G.O.

p 43

(F) Typed 31826

cpp 3-4 cf 3) Paras 3 and 4 :— Road margins and the authority to deal with encroachments :—

pp 47-49 cf. The remarks of the Board of Revenue on this point clear the doubt of the President. All roads own their margins upto the boundaries (which are registered as road poramboke) of the adjacent property and rest in the local boards. Encroachments on these roads and road margins can be dealt with by the local boards in which they rest and by their

their Presidents. In G.O. no. 834 Rev. dated 5.6.24 (B)
the Govt have definitely ordered that all
encroachments on local fund roads and
poramboke should be dealt with by local
fund establishments. the remarks of the Bd. of Rev. in
para. 3 of its Reference may be accepted
4) Para 5 levy of sub division fees and seigneurage
on the trees growth on land when alienating such
land to local boards :-
The n---- of the Board of Revenue on this
point may be supported in this deptt.

6) Para 6. Kumaki rights :-
The Collector of South Kanara in his
proceedings dated 22-7-25 has issued instructions as to whether a margin of 22 yards
should be reserved when a local fund or an
important village road passes through kumaki
land and whether the local fund deptt
should be consulted as to the assignment
on darkhast of the encroachment of the
kumaki portion within the road margins. The
President requests that these instructions may
be approved by Govt formally. This question is
one for consideration in
Revenue.

6. Para 7:- demarcation of roads from the centre
of a road on either side of it as road poramboke
wherever possible :-
The Collector reports that the question of the demarcation of the roads was raised in

Form 48 cf.
Form 31.8.26
Y pli cf
Y. pp 48-44 cf
Form 31.8.26
X pp 27 to 33 cf
p. 58
Form 31.8.26
X p 51
p 45 cf

1913 and was retored by the Board of Revenue and that the circumstances of the district have not changed since. The request of the President may however be commended to the favourable consideration of the Rev. Deptt.

Yours 30.8.26

7). Para 8 :- Control of trees on roadways

The remarks of the Collector may be supported in this Deptt. The Board concurs fully with the Collector

8) It is submitted that orders in this case should more properly issue in the Revenue Deptt and that Deptt may therefore be requested to accept the transfer of this file to them

Yours 31.8.26

Yours 30.8.26

Yours 31.8.26

Submitted

Rev. Deptt

Revenue Deptt

Rev. Secretariat

Rev Cr. 2213. E

Rd 3.9.26

57

Revenue Department.

To Under Secretary.

The President, District Board, South Kanara, in submitting copies of certain resolutions of the District Board makes certain requests (pp.1-6 C.F.). The remarks of the Collector of South Kanara and the Board of Revenue are contained at pp.43-46 and 47-49 respectively. The several points raised are dealt with in the sectional notes below.

I. Cancellation of the notification 1896 and vesting of all public roads with Local Boards. Para 2 pages 1 and 2 C.F. Collector's remarks para 1, page 43 C.F.

The President states that there are several public roads in the District maintained actually by the Local Boards, but are not legally vested in them owing to the existence of the notification of 1896 published under section 49 of the old ~~District~~ Local Board's Act 1884 vesting in the Local Boards only certain specified roads and excluding the rest from the operation of the Local Board's Act. According to section 60-1 of the Local Board's Act of 1920 all public roads vest in the respective local Boards unless any of them are excluded under section 60-3 from the operation of the act. The President, District Board considers that as the notification of 1896 vests only certain roads in the District Board, the others are not so vested and requests that the said notification may be cancelled. As observed by the Collector in para 2 of his letter, the notification has already been cancelled by G.O.No.1023 L. & M., dated 20-8-1909 and no fresh orders are necessary on this point. The

President may be informed accordingly.

In any case the Collector's letter No. 1811 on the subject issued by H.S.G. makes the position quite clear

G.O. 4780 dated 10.11.26 (L)

II. Authority for the detection and control of encroachments on 22 yards road margin (paras. 3 and 4 of President's letter pp.3 and 4 C.F. Para. 3 of Collector's letter pp.43 and 44 C.F. and paragraph 2 of Board's remarks pp.47-48 C.F.) :- The second point raised by the President is that the Local Board should be left control on the 22 yards road margin of roads vested in them irrespective of the fact whether such road margins form part of lands registered as road porambokes or not. Under the existing rules the Local Boards have absolute control and powers to prevent encroachments on lands registered as road porambokes.

Item 5 Annexure II A. P.S.G.O. 837 S.S. 6.28 (B)

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Encroachments on road margins not registered as road porambokes are to be dealt with only by the Revenue Department and no change is needed in the procedure. The Collector's view that it is the duty of the Revenue Department to take action against encroachments on lands beyond 22 yards road margin although the encroachments fall within the survey field registered as road poramboke is not correct, and the Board has pointed out the mistake to the Collector. The President may be informed of these orders.

MA 30-10-26.

In any case the failure will be made quite clear by the action taken on the S.D. re survey of roads paths etc recently issued by Rev with the concurrence of M.S.G.

7-11-26

G.O. 1713 8.8.10.1926 (T)

III. Alienation of 22 yards land are road margin and demarcation of roads with 22 yards margin.

(Paragraphs 4 and 7 of President's letter pp.4 and 5

C.F. Para. 4 of Collector's letter pages 44 and 45 C.F. and paragraph 3 of Board's remarks page 48 C.F.)

The President's next request is that a margin of 22 yards of land along side of all public roads should be alienated in favour of the concerned Local Board wherever possible, and the roads demarcated so that the Local Board's may have absolute control over these roads and the road margins. On the question of alienating 22 yards road margin the Collector states that, where road margins do not form part of the road porambokes but form part of the adjoining unassigned Government waste, the Government have in G.O.No.254 L.&M. (E) dated 20-2-1908 ordered that the Collector might take steps for their inclusion within the limits of the road by determining such limits and alienating them to the Local Boards concerned, where necessary. Though the District Board was informed of the above Government order in 1908, the Local Boards have not taken steps or getting such road margins transferred to their control. But the Board of Revenue observes that the orders in the G.O. can be held to apply only to alienation of a definite plot for a specific purpose and not to such whole transfers as the President, District Board now requires. Any how the question of alienation merges itself into the other question (viz) demarcation of roads. From the 3 classes of encroachments mentioned on page 3 C.F., it would appear that the public roads in the District can be classified under 3 heads. (1) roads passing through lands <u>registered as assessed waste</u> and having plenty of road margin beyond 22 yards (2) roads passing through lands registered as <u>road poramboke</u> but with more space on either side than will actually be required for road purposes and (3) roads registered as road poramboke, but not having the 22 yards margin. Roads coming under class 3 may be left

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out of account as they have already been demarcated. Concerning the other 2 classes of roads it seems desirable, now that a resurvey is going on in the District, that steps are taken ~~further~~ for their demarcation especially in view of the wide definition of a public road as extending upto the boundaries of the adjacent property Government or private. It appears from para 4 of the Collector's letter pages 44 and 45 C.F. that the question of the general revision of the demarcation of the roads in the District was raised by Mr. Couchman in ~~1905~~ 1913, but that the Board vetoed his proposal. It is not known what those proposals were and why they were ~~objected~~ objected.

In G.O.No.1713 dated 8-10-26 the Government have directed that during resurvey, in the case of ~~unmaintained~~ Vested roads, a reasonable width (say one or two chains as the case may be or such smaller width as the poramboke field permits) shall be demarcated as road poramboke which shall vest in the Local Board and that the rest shall be left available for assignment. Presumably as the roads in question, though now maintained by the Local Boards have not been surveyed according to their strict requirements the Board will come up with proposals for their resurvey. If thought necessary, the Board's attention may be drawn specifically to the question of demarcation of the roads in the South Kanara District. The President, District Board may be informed that the question of demarcation is under the consideration of the Government.

Only one Taluk of the S.K. District is being surveyed at present, and any hint the Bd. that roads in the remaining Taluks should be demarcated will provably be taken as an opportunity to urge the retention of a survey party. A reply to the President on the lines of the Bd's rep. in para 3 at p.48 cs may be given. NR 30-10-26.

Will G.S. please show the authority for which Regt. to "unmaintained" roads. Sd/ b

Put up copy of the later G.O. issued in L.S.G. MMM 7/12/26

Should it be "Vested"? ~~Altered~~ corrected MMM 20/12/26

The G.S. vide (XII) district circular recently approved in which settle this point. Sd/ b

12 67

(iv) (a) Waiving of subdivision fees for alienation of lands (Para 5 of President's letter page 4 C.F. Para 5 of Collector's letter page 45 C.F. and paragraph 4 of Board's remarks pp.48 and 49 C.F.) The Board's remarks clear up the situation and may be accepted. Moreover if the question of demarcation of roads in the course of resurvey is decided in the affirmative, the question of special alienation of land nor the levy of subdivision fee will arise.

(iv)(b) Waiving of seigniorage fees for tree-growth on land transferred to Local Boards. (Para. 5 of President's letter at p.4 C.F.) The Board of Revenue in para. 4 of its Proceedings has not specifically adverted to the question of the levy of seigniorage fees for trees on road margins. But from the Board's remarks that, by the subdivision of the outside portion, the inside road margin is automatically transferred to the local board, the Board of Revenue seems to contemplate that no seigniorage fees for the trees standing on the margins should be charged. This

63

(C)

view is in accordance with the orders in G.O.No. 1334 Revenue, dated 29-8-24.

K.R.
10-11-26.

(V) - Treatment of kumaki privileges on road margins. The President raises the question whether kumaki privileges should have precedence over the road margin interests of local boards. The whole question of the treatment of kumaki privileges on road margins is separately under consideration and no action is necessary on the point in this file.

C.R.P.
3-11-26.

(XII)

64

Extract of his's note on page 11 above.

" Put up a copy of the late Govt. issued in L.S.G.

To under Secy.

A copy of Govt. no. 4780 L&M dt 10.11.26 is submitted flagged (L)

MA 9.12.26 ~~Secretary's query.~~

Secretary's order on page 11 n.f.

~~There is~~ The order was intended to apply to all roads and paths which vest in local boards, the Government have excluded all "unmaintained" roads from the control of Local Boards. MMV 20/12/26

L

S

Draft: orders

To under Secy.

A draft order is submitted for approval. It may be sent to L.S.G. for perusal before (vide L.S.G. Secy's note p.5 above).

MA 5.1.27.

Type as altered With regard to trees on land included in road prambles, see the order in A section and amend the answer to Item 3 accordingly MMV 13/1.27

3.1. 7/1/27

Ale 11.1.27

Thro 'A' section. A Section

Ale ~~12.1.27~~

Note.

Draft re reply to Hy. HS was sent to L.S.G. no on 8.1.27 (Cir. 433/Accts).

Recd back 17.1.27

Ale 17.1.27

To underSecy.

The draft order has been amended directed, and is submitted typed. It may be sent L.S.G. for perusal (vide L.S.G. Secy's note page

MA
1-2-27.

2.2.27

S

A. I have altered it. Any criticisms? Will type as altered & submit it. The authority for the statement at (X) should be mentioned. The authority had better be looked up.

To U.S.

With reference to the portion marked 'A' of the Secretary's note above it is submitted that the question of charging subdivisions arose in 1922. Please see the opening sentence of G.O.1649 Rev. d. 3-11-23. The subdivision fee is levied only for subdivisions made after survey or between surveys and not in the course of a survey or resurvey. No subdivision fee is leviable for subdivisions made in the course of a survey or resurvey. The G.O. does not expressly mention this fact and cannot, it is submitted, be mentioned in the present order as authority for the statement.

S.K. Then quote the authority.

(X) G.O. 1649 (X)

U/S undersecy.

Submitted. After the words Local Boards

~~means~~ in the first sentence in clause (3) page 4

the draft order, ~~may be~~ the following clause may

inserted " as the ~~fees~~ prescribed in G.O. no. 1649 Rev ⊗

3.11.23 ~~authorised~~ are levied only for making subdivisions

in survey or between resurveys.

Please bring
MRV
12.2.27

After approval of this amendment this draft order

the typed submitted.

It is suggested that the first

in item (3) page 4

~~may~~ be amended to read as

follows. " When sub. divisions

are made in the course of a

resurvey, no subdivision fees will

be levied from the Local Boards

Please see T.M. at 2.

MRV 15/2.27

I do not see how
this improves matters.
I have added to the
draft. If it is now
in order, typ

[illegible]

23.2.27

23.2.27

RMP

17

67

L.S.

The draft is sent to H.E.H. for acceptance with reference to the Secretary's note on page 5 ante. It may be accepted and the file returned to Revenue.

Mapp 25/2 Corr 25/2

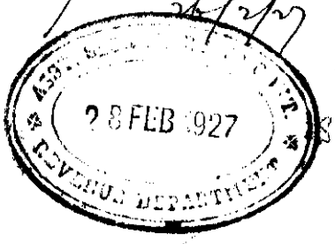
Rev

H/p 26/2 — Revenue

To us.

Rev Dept

L.S. No. 6550-1C.



28/2/27

DA 28.2.27

Rs 807 E

28/2/27

Submitted for orders as to issue.

3.3.27

Draft for approval

C.

8/3/27 Issue

Std. Dict 1894 3 - Rs. 2 Dict 1920

Corr. 8/3/27.

R. notes destroyed. Complete

DA 18.3.27

OFFICE OF THE_____

*Dated*_____192

_____Hours_____Minutes.

TELEPHONIC MESSAGE.

The Secy, Bd of Rev LR&S

The U.S. Revenue.

Survey- Subdivision fee— Levy—
Con No 1649 Bk 8 11.23.

The Statement is correct as se
parate fees are levied for
subdivisions measured in the cou
, a resurvey. Please see also
para 1 of the G.O. 9

T.M.
Overleaf
(X)

L

[redacted]

Please see T.M. overleaf

[redacted]

NA
14.2.27

15/2.27

T.M.

From.

The Under Secretary to Govt
Revenue Dept.

To

The Secretary to the Board of Rev.
(LR+S)

Survey. Subdivision fee. Levy.
G.O. no. 1649 d 8.11.23.

Please say if it is correct to
says "when subdivisions are
made in the course of a resurvey
no subdivision fees will be levied
from the Local Boards".

12/2.27

Issued
Jacob.
-2-27.

Sectt. II-5 (b)—9,006—9-11-26 (6)

REVENUE DEPARTMENT

	Date.	Initials.
When received for Fair-copying.	15/3/27	
When copied ..	15/3/27	
When examined ..		
When signed ..		17/3
When despatched ..		

READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO:—

C. No. 2213 B/25 From the President, Dt. Board, South Kanara Dt. No. 2316 Mis/25, dated 15--4-- 1926.

" " ..... " " Board of Revenue, " B.3025-26-1, " 9--8-- 1926.

" " ..... " " ..... " ..... " ..... 192 .

ORDER.

No. 446, dated 10/3/27 192 7

Mis.

The President, District Board South Kanara District in submitting copies of certain resolutions passed at the meeting of the District Board held on the 25th January 1926 has made the following requests:--

(1) that the notification issued in 1896 under section 49 of the old Madras Local Board's Act V of 1884 vesting in the Local Boards only certain specified roads in the District, and excluding others from the control of the Local Boards may be cancelled, as on account

of this notification, many roads formed subsequently, and actually maintained by the Local Boards are not considered to be vesting in the Local Boards

(2) that the definition of "public road" may be amended so as to include a road margin of 22 yards, and that in the case of all roads, a margin of 22 yards should be alienated in favour of the Local Board concerned, and the roads demarcated as such

(3) that when lands are so alienated neither sub-division fees, nor seigniorage fees should be levied from the Local Boards, and that the trees on the road margins should be left at the disposal of the Local Board's concerned and

(4) that when kumaki lands within the 22 yards road margin ~~are proposed to be assigned~~ it is proposed to assign to private parties, the interests of the Local Boards should have preference over the interests of private individuals, and that the Local Boards should be consulted in all cases of

assignments affecting road margins.

2. The Government have considered (1) the reports of the Collector and the (2) Board of Revenue and pass the following orders seriatim on the several requests

(1) pp 43-46 CF

(2) pp 47-49 CF

(1) The notification referred to has already been cancelled in G.O.No. 1023 L. & M., dated 20-8-1909. The Govt. have, under section 60(3) of the Madras Local Boards Act XIV of 1920 directed in G.O.No.4780 L. & M. dated 10-11-26 the exclusion from the operation of the Act of all public roads not actually maintained by the Local Boards on that date. All the maintained roads consequently vest in the Local Boards, and no special orders are necessary as requested by the President.

(2) The Government are unable to accept the suggestion of the Dist. Board. Under the existing rules, the Local Bds have powers to check encroachments on lands vesting in them. The orders passed in G.O.No.1713, dated 8-10-26, as modified

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by G.O.No.54 Press, dated 11-1-27, provide adequately for margins of roads vesting in Local Boards.

(3) When sub-divisions are made in the course of the resurvey ordered in G.O.No.1713, dated 8-10-26, as modified by G.O.No.54 Press, dated 11-1-27, no sub-division fees will be levied from the Local Boards as it is only in respect of sub-divisions made at the request of the interested parties after survey or between surveys that a fee is charged in accordance with the orders in G.O.No.1649 Rev, d.8-11-23. In respect of the trees standing on roads vested in Local Boards the Collector of the District will in pursuance of the instructions issued in G.O.No.135 Press, dated 26-1-27 furnish the Presidents of the Local Boards concerned with information relating to all the trees standing on such roads which are entered in the 2 C. accounts of the villages through which the roads run. The Local Boards can then assume control over such trees.

(4)

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Copy (XII)

(4) In accordance with the instru tions contained in G.O.No.2080 Rev., dated 6-12-1926, the Collector of Sout Kanara will publish in supersession of all the previous circulars issued by him on the subject a circular containi detailed instructions as to the policy to be adopted by the Revenue Officials in dealing with applications for the assignment of kumaki lands adjoining the Local fund roads.

To the Board of Rev.,L.R. & S.
Copy to L.S.G.
To the President Dist.Board,South Kanara Dt. through L.S.G. with copies of G.O.1713 Press, d. 8-10-26 and G.O.54 Press,d. 11-1-27.

9.3.27

11 MAR 1927